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Commonwealth Edison Company	)	
	)	
Petition for Expedited Approval of	)	Docket No. 00-0259
Implementation of a Market-based	)	
Alternative Tariff, to Become Effective	)	
on or before May 1, 2000, Pursuant to	)	
Article IX and Section 16-112 of the	)	
Public Utilities Act	)	
	)	(cons.)
	)	
Central Illinois Public Service Company	)	
Union Electric Company	)	
	)	Docket No. 00-0395
Petition for Approval of Revisions to	)	
Market Value Tariff, Rider MV	)	
	)	
	)	
Illinois Power Company	)	
	)	Docket No. 00-0461
Proposed New Rider MVI &	)	
Revisions to Rider TC	)	
	)	

**ILLINOIS POWER COMPANY'S BRIEF ON REOPENING**

Joseph L. Lakshmanan, Esq.  
Illinois Power Company  
500 South 27<sup>th</sup> Street  
Decatur, IL 62521-2200  
(217) 362-7449  
(217) 362-7458 (facsimile)  
Joseph\_Lakshmanan@illinoispower.com

Dated: March 6, 2001

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**ILLINOIS POWER COMPANY'S BRIEF ON REOPENING**

Pursuant to the schedule set for the reopened proceedings and § 200.800 of the Commission's Rules of Practice, Illinois Power Company ("Illinois Power," "IPC" or "IP") hereby submits its Brief on Reopening in the above-referenced, consolidated dockets.

**INTRODUCTION & SUMMARY**

In these consolidated cases, Commonwealth Edison Company ("ComEd" or "CE"), Central Illinois Public Service Company and Union Electric Company (collectively, "Ameren") and Illinois Power each submitted proposals to replace the market values reported by the Neutral Fact-

Finder (“NFF”) process with market values based on indices. After a Hearing Examiner’s Proposed Order (“HEPO”) was filed, these proceedings were reopened for evidence on three narrow evidentiary issues. Based on the record in this case (both prior to reopening and after), the Commission should approve Illinois Power’s proposed MVI methodology, as it has been refined by IPC throughout this proceeding. In particular, on the reopened issues:

- (1) No off-peak adjustment is warranted in IPC’s case;
- (2) No optionality adjustment is warranted in IPC’s case; and
- (3) Although the suspension of trading on an electronic exchange for into-ComEd transactions is irrelevant to our case (because we use into-Cinergy transactions), our proposal to add another exchange (the Intercontinental Exchange (“ICE”)) to our market basket should be approved because it further adds to our data sources and bolsters our proposal to re-set values on a bi-monthly basis in light of the HEPO’s concerns with monthly re-sets.

### ARGUMENT

This proceeding was reopened on three narrow issues. *First*, NewEnergy requested that the three utilities provide (on a confidential basis to the ICC Staff and the Attorney General’s office (“AG”)) data regarding the prices at which the utilities’ sold off-peak power in the last 12 months as means of determining whether an adjustment should be made to the off-peak values derived from the MVI methodologies to account for the cost of acquiring capacity to meet off-peak retail loads. NewEnergy Motion at 15. *Second*, NewEnergy wanted each of the three utilities to describe “the optionality adjustments utilized by the utilities in the wholesale marketplace today to properly account for the value of serving an uncertain load.” *Id.* *Finally*, the IIEC requested further hear-

ings on the impact of the suspension of the into-ComEd screen on Bloomberg's PowerMatch. IIEC Motion at 2. Our argument treats each of these issues *seriatim* below.

**I. No Off-Peak Adjustment is Warranted in IPC's Case.**

In response to requests from the ICC Staff and the AG, IPC provided data (on a confidential basis) relating to the off-peak issues raised by NewEnergy. Mr. Zuraski of the ICC Staff initially provided confidential testimony on the data and his conclusions relating to that data. ICC Staff Ex. 8.2P.<sup>1</sup> In light of the Hearing Examiner's request (Reopening Tr. 350-54 (02/27/01)), IPC has reconsidered how much of that exhibit needs to be treated as confidential and attaches hereto (as App. 1) a version of that exhibit with much of the exhibit unredacted.

On the merits of this issue, little is required to reach the proper result. IPC supplied the data requested. The Staff examined that data and concluded that no "conclusions can be drawn relative to the rehearing issues in this docket." *See* App. 1. We agree. Therefore, no off-peak adjustment to IPC's MVI methodology is warranted based on the evidence adduced on reopening.

**II. No Optionality Adjustment is Warranted in IPC's Case.**

On the optionality issue, the record is equally clear and the answer equally straightforward. IPC is not an active participant in the wholesale electric market place today. IP Ex. 1.7 at 2. Therefore, IPC's use of an optionality adjustment in that market place is moot. *Id.* Based on this evidence (the only sought by NewEnergy in its Motion), the answer should be clear: no optionality adjustment is warranted in IPC's case.

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<sup>1</sup> All references to Exhibits are in the form "[Party] Ex. [No]. at [p.]" unless otherwise noted. Also, references to the transcripts are in the form "Tr. [p.] ([date])" unless otherwise noted.

Although that should end the matter, we are concerned that NewEnergy will attempt to distract the Commission by raising a host of side issues, none of which are properly within the scope of reopening and none of which change the proper answer set forth above.

For example, NewEnergy may start from a false premise that the need for such an adjustment was already accepted in the HEPO. *See, e.g.*, AES NewEnergy Ex. 6 at 18. However, NewEnergy's premise flows from a misquotation of the HEPO, as was demonstrated on cross-examination. Reopening Tr. 327-30 (02/27/01).

Furthermore, IPC has stated from the beginning of this case that, if one were to endeavor to determine the value NewEnergy asserts is present, a proper adjustment must look at both the cost to the ARES (which NewEnergy focuses on exclusively) and the benefit that the ARES may receive from a customer (who either takes more power when prices to the ARES are low or less when prices to the ARES are high). *See, e.g.*, IP Ex. 2.6 at 20. Finally, on cross-examination, NewEnergy's expert agreed that netting the costs with the benefits "would be a good way of modeling" an optionality adjustment. Reopening Tr. 342 (02/27/01). Yet, as best as we can determine, no NewEnergy witness has put forth a methodology that actually performs this aspect of NewEnergy's adjustment. *See, e.g., id.* at 341 ("I haven't proposed either way.").

The issue of net benefits/costs is all the more important when one considers that weather is one of the major factors which will impact whether demand is high. *Id.* at 339. Yet, NewEnergy's expert had no idea how much of the usage of customers served by NewEnergy was weather sensitive. *Compare id.* at 340 (Mr. Somers' lack of knowledge with respect to several classes of customers) *with id.* at 283-84 (stipulation as to several of NewEnergy's customers which belong to

those customer classes). Thus, the proponent of this adjustment has no idea whether its adder should (in its own case) actually be a negative number.

NewEnergy's inability to create a proper foundation for its methodology and to properly demonstrate how such a methodology should work bolsters the HEPO's conclusion (even after reopening): "the record simply does not contain a viable approach for use in quantifying an optionality adjustment." HEPO at 117.

Furthermore, NewEnergy's new found methodology (of applying whatever model Ameren uses to all three utilities) is more problematic than helpful. As we noted in surrebuttal, we have no way of knowing whether this model is suitable for addressing the optionality issue (including whether it addresses both the cost and the benefit sides of the equation now acknowledged to exist by NewEnergy), whether Ameren's model is compatible with the way IPC compiles data or whether it can be run in a manner that meets the updating needs built into IPC's methodology. See IP Ex. 1.8 at 3-4. The reason we know none of this is because Ameren's model is considered highly proprietary by Ameren and we have not been allowed to see it. In such a case, not only would it be inappropriate to adopt such a model sight unseen for IPC's use, it is not clear how tariff language could be crafted to do so (assuming *arguendo* Ameren's willingness to permit others to use their model).

Finally, NewEnergy may complain (yet again) that the utilities failed to present witnesses that had actual trading experience. Although IPC's witness on reopening was not an electric trader, we had, in fact, presented such a witness (Mr. Peters) in the initial round of these proceedings. Since NewEnergy had an opportunity to cross Mr. Peters and asked him very few questions on that score, NewEnergy's desire to learn from someone with such experience was presumably quenched

at that point, at least in IPC's case. On reopening, the issues were more limited; we presented a witness who could (and did) address them.

Even if NewEnergy continues to muddy the waters on optionality, the answer remains clear in IPC's case: no optionality adjustment is warranted. Not only do we not perform such an adjustment at this time (the issue raised by NewEnergy on reopening), NewEnergy itself now admits that it has missed half the analysis (the potential benefits an ARES may see from those customers whose load patterns are different from the "cost"-only customers discussed by NewEnergy heretofore).

### **III. Electronic Exchanges Remain a Viable Data Source and IPC's Proposal to Add Another One to its Market Basket Should Be Adopted.**

The final issue on reopening relates to the suspension of Bloomberg's into-ComEd screen. The simplest answer is that this development has no impact on IPC's proposal because we use into-Cinergy data. *See* IP Ex. 1.7 at 3. Furthermore, we have not limited ourselves to electronic exchange data: we also use *Power Markets Week* data. *Id.* These points alone suffice to make the recent development on Bloomberg irrelevant to our case.

IPC, however, has gone even further and is now proposing that an additional data source be included in its market basket of sources. In particular, we propose that the Intercontinental Exchange ("ICE") be included. *Id.* at 3-4. Throughout this proceeding, we have been willing to look at adding data sources. In the briefing on motions to reopen, ICE was noted as possibly being a place to which trading was migrating. We therefore looked at using it and decided that ICE's inclusion would not detract from our proposal. Indeed, ICE's recent trading activity appears to be quite robust: we "observed 288 separate trades representing 5,934,400 megawatt-hours of contracts for a hypothetical March 1 effective date sampled from January 24 through February 7,

2001.” Reopening Tr. 63 (02/27/01). Not only will adding ICE create a more liquid market basket, it has another advantage as well. If the Commission orders bi-monthly updates in IPC’s case (to address the concern about providing customers more time to decide whether to take delivery services), then the addition of another source of data means that IPC’s proposal will have as many (or more than) the number of possible inputs to its updates that Ameren (or ComEd) has, while nonetheless updating the market values more frequently than those parties (or the NFF). *See* IP Ex. 1.7 at 4.<sup>2</sup> We note, that no party submitted testimony disagreeing with our bi-monthly updates or with the obvious point that including ICE bolsters the acceptability of performing bi-monthly updates (as compared to IPC’s initial proposal of monthly updates).

For all of the above reasons, ICE should be added to IPC’s market basket and our bi-monthly updating process should be adopted.

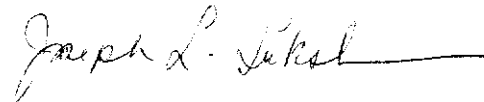
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<sup>2</sup> On cross-examination, IPC noted its agreement with most of the IIEC’s variation on our bi-monthly proposal. In general, the date of publishing would be the 15<sup>th</sup> day of the month, and PPO notification would be the lesser of the period between the 2<sup>nd</sup> business day thereafter and the next scheduled meter read date or 30 days, *only* for those customers who were already on bundled rates or taking PPO. This limitation on the shorter PPO window addresses IPC’s concerns with having to find additional supply in a short time-frame to serve customers going from third-party supply to PPO. *See* Reopening Tr. 65-66 (02/27/01).

## CONCLUSION

In sum, even after reopening, Illinois Power's MVI proposal (as amended by IPC's witnesses during the course of these proceedings) should be adopted by this Commission without further adjustments for either optionality or off-peak issues. Two modifications are, however, appropriate: ICE should be added to our market basket and market values should be updated on a bi-monthly basis. Our willingness to add to our market basket demonstrates the vibrancy of our methodology.

Respectfully submitted,

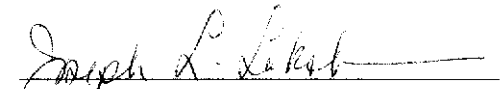


Joseph L. Lakshmanan, Esq.  
Illinois Power Company  
500 South 27<sup>th</sup> Street  
Decatur, IL 62521-2200  
(217) 362-7449  
(217) 362-7458 (facsimile)  
Joseph\_Lakshmanan@illinoispower.com

Dated: March 6, 2001

## **CERTIFICATE OF SERVICE**

I, Joseph L. Lakshmanan, certify that on the 6<sup>th</sup> day of March, 2001, I served a copy of Illinois Power Company's Brief on Reopening electronically and by first class mail, from Decatur, Illinois, postage prepaid to the individuals on the service list attached.

  
Joseph L. Lakshmanan, Esq.

**Service List**

**Docket Nos. 00-0259, 00-0395 & 00-0461 (Cons.)**

KOBY BAILEY  
DIRECTOR OF REGULATORY AFFAIRS  
NICOR, INC.  
PO BOX 3014  
NAPERVILLE, IL 60566-7014

LEIJUANA DOSS  
ASSISTANT STATE'S ATTORNEY  
ENVIRONMENT AND ENERGY DIVISION  
COOK COUNTY STATE'S ATTORNEY'S OFFICE  
69 W. WASHINGTON, STE. 700  
CHICAGO, IL 60602

SHERMAN ELLIOTT  
ILLINOIS COMMERCE COMMISSION  
527 E. CAPITOL  
SPRINGFIELD, IL 62701

JOHN FEELEY  
OFFICE OF GENERAL COUNSEL  
ILLINOIS COMMERCE COMMISSION  
160 N. LASALLE, STE. C-800  
CHICAGO, IL 60601

DAVID I FEIN  
ATTY. FOR NEWENERGY MIDWEST, L.L.C.  
PIPER MARBURY RUDNICK & WOLFE  
203 N. LASALLE ST., STE. 1800  
CHICAGO, IL 60601-1293

D CAMERON FINDLAY  
ATTY. FOR COMMONWEALTH EDISON COMPANY  
SIDLEY & AUSTIN  
10 S. DEARBORN  
CHICAGO, IL 60603

**Service List - page 2**

**Docket Nos. 00-0259, 00-395 & 00-0461, (Cons.)**

EDWARD C FITZHENRY  
ATTY. FOR IIEC  
LUEDERS, ROBERTSON & KONZEN  
1939 DELMAR AVE.  
P.O. BOX 735  
GRANITE CITY, IL 62040

CHRISTOPHER W FLYNN  
ATTY. FOR CIPS/UE  
JONES, DAY, REAVIS & POGUE  
77 W. WACKER  
CHICAGO, IL 60601-1692

GERARD T FOX  
ATTORNEY  
PEOPLES ENERGY SERVICES CORPORATION  
130 E. RANDOLPH DR., 23RD FL.  
CHICAGO, IL 60601

ROBERT GARCIA  
ILLINOIS COMMERCE COMMISSION  
STE. C-800  
160 NORTH LASALLE  
CHICAGO, IL 60601-3104

MICHAEL S GILLSON  
MANAGER  
UNION ELECTRIC COMPANY  
500 E. BROADWAY  
EAST ST. LOUIS, IL 62201

KEITH GOERSS  
CENTRAL ILLINOIS LIGHT COMPANY  
300 LIBERTY ST.  
PEORIA, IL 61602

**Service List - page 3**

**Docket Nos. 00-0259, 00-0395 & 00-0461, (Cons.)**

FREDDI GREENBERG  
ATTY. FOR MIDWEST INDEPENDENT POWER SUPPLIER  
1603 ORRINGTON AVE., STE. 1050  
EVANSTON, IL 60201

EACATA D. GREGORY  
JONES, DAY, REAVIS & POGUE  
SUITE 3500  
77 W. WACKER DR.  
CHICAGO, IL 60601-1692

EDWARD J GRIFFIN  
ATTY. FOR CENTRAL ILLINOIS LIGHT COMPANY  
DEFREES & FISKE  
200 S. MICHIGAN AVE., STE. 1100  
CHICAGO, IL 60604

JULIE HEXTELL  
NEWENERGY MIDWEST, L.L.C.  
29 S. LASALLE ST., STE. 900  
CHICAGO, IL 60603

JAMES HINCHLIFF  
ATTORNEY  
PEOPLES ENERGY SERVICES CORPORATION  
130 E. RANDOLPH DR., 23RD FL.  
CHICAGO, IL 60601

RONALD D JOLLY  
ASSISTANT CORPORATION COUNSEL  
DEPT. OF LAW  
CITY OF CHICAGO  
30 N. LASALLE, STE. 900  
CHICAGO, IL 60602-2580

**Service List - page 4**

**Docket Nos. 00-0259, 00-0395 & 00-0461, (Cons.)**

MARK G KAMINSKI  
ASSISTANT ATTORNEY GENERAL  
PUBLIC UTILITIES BUREAU  
100 W. RANDOLPH ST., 12TH FL.  
CHICAGO, IL 60601

MARY KLYASHEFF  
ATTORNEY  
PEOPLES ENERGY SERVICES CORPORATION  
130 E. RANDOLPH DR., 23RD FL.  
CHICAGO, IL 60601

DEBRA L KUTSUNIS  
MIDAMERICAN ENERGY COMPANY  
106 E. 2ND ST.  
DAVENPORT, IA 52801

SUSAN M LANDWEHR  
DIRECTOR, GOVERNMENT AFFAIRS  
ENRON ENERGY SERVICES, INC.  
900 SECOND AVE. SOUTH, STE. 890  
MINNEAPOLIS, MN 55402

A ROBERT LASICH JR  
MIDAMERICAN ENERGY COMPANY  
800 RUAN CENTER  
666 GRAND AVE.  
DES MOINES, IA 50309

REBECCA J LAUER  
DEPUTY GENERAL COUNSEL  
COMMONWEALTH EDISON COMPANY  
PO BOX 767  
CHICAGO, IL 60690-0767

**Service List - page 5**

**Docket Nos. 00-0259, 00-0395 & 00-0461**

DANIEL D MCDEVITT  
ATTY. FOR UNICOM ENERGY INC.  
GARDNER, CARTON & DOUGLAS  
321 N. CLARK ST., STE. 3400  
CHICAGO, IL 60610

MICHELLE MISHOE  
ILLINOIS COMMERCE COMMISSION  
160 N. LASALLE ST., STE. C-800  
CHICAGO, IL 60601-3104

MICHAEL A MUNSON  
ATTY. FOR INTERVENORS  
LAW OFFICE OF MICHAEL A. MUNSON  
8300 SEARS TOWER  
233 S. WACKER DR.  
CHICAGO, IL 60606

ALAN H NEFF  
ASSISTANT CORPORATION COUNSEL  
DEPT. OF LAW  
CITY OF CHICAGO  
30 N. LASALLE, STE. 900  
CHICAGO, IL 60602-2580

KARIN NORINGTON  
CITIZENS UTILITY BOARD  
STE 1760  
208 S. LASALLE  
CHICAGO, IL 60604

ANSTASIA O'BRIEN  
COMMONWEALTH EDISON COMPANY  
125 S. CLARK ST.  
CHICAGO, IL 60603

PHILIP R O'CONNOR  
PRESIDENT  
NEWENERGY MIDWEST, L.L.C.  
29 S. LASALLE ST., STE. 900  
CHICAGO, IL 60603

**Service List - page 6**  
**Docket Nos. 00-0259, 00-0395 & 00-0461**

KATIE PAPADIMITRIU  
160 N. LASALLE ST., STE. C-800  
CHICAGO, IL 60601

JOSEPH H RAYBUCK  
AMEREN  
MAIL CODE 1310  
1901 CHOUTEAU AVENUE  
ST. LOUIS, MO 63103

SARAH J READ  
ATTY. FOR COMMONWEALTH EDISON COMPANY  
SIDLEY & AUSTIN  
10 S. DEARBORN ST.  
CHICAGO, IL 60603

CONRAD REDDICK  
CITY OF CHICAGO  
SUITE 1040  
30 N. LASALLE STREET  
CHICAGO, IL 60602

G. DARRYL REED  
SIDLEY & AUSTIN  
10 S. DEARBORN ST.  
CHICAGO, IL 60603

JOHN J REICHART  
OFFICE OF GENERAL COUNSEL  
ILLINOIS COMMERCE COMMISSION  
160 N. LASALLE ST.  
CHICAGO, IL 60601

STEVEN G REVETHIS  
OFFICE OF GENERAL COUNSEL  
ILLINOIS COMMERCE COMMISSION  
160 N. LASALLE, STE. C-800  
CHICAGO, IL 60601

**Service List - page 7**  
**Docket Nos. 00-0259, 00-0395 & 00-0461**

E GLENN RIPPPIE  
ACTING ASSOCIATE GENERAL COUNSEL  
COMMONWEALTH EDISON COMPANY  
125 S. CLARK ST.  
CHICAGO, IL 60603

ERIC ROBERTSON  
ATTY. FOR IIEC  
LUEDERS, ROBERTSON & KONZEN  
1939 DELMAR AVE.  
P.O. BOX 735  
GRANITE CITY, IL 62040

RANDALL ROBERTSON  
ATTY. FOR IIEC  
LUEDERS, ROBERTSON, & KONZEN  
1939 DELMAR AVE.  
P.O. BOX 735  
GRANITE CITY, IL 62040

COURTNEY A ROSEN  
ATTY. FOR COMMONWEALTH EDISON COMPANY  
SIDLEY & AUSTIN  
10 S. DEARBORN  
CHICAGO, IL 60603

THOMAS RUSSELL  
UNICOM ENERGY, INC.  
125 S. CLARK ST., STE. 1535  
CHICAGO, IL 60603

PAUL T RUXIN  
ATTY. FOR CIPS/UE  
JONES, DAY, REAVIS & POGUE  
77 W. WACKER  
CHICAGO, IL 60601

**Service List - page 8**

**Docket Nos. 00-0259, 00-0395 & 00-0461, (Cons.)**

W MICHAEL SEIDEL  
ATTY. FOR CENTRAL ILLINOIS LIGHT COMPANY  
DEFREES & FISKE  
200 S. MICHIGAN AVE., STE. 1100  
CHICAGO, IL 60604

NICK T SHEA  
DIRECTOR, RATES & REGULATORY AFFAIRS  
CENTRAL ILLINOIS LIGHT COMPANY  
300 LIBERTY ST.  
PEORIA, IL 61602

MICHAEL J SHERIDAN  
CMS MARKETING, SERVICES & TRADING COMPANY  
ONE JACKSON SQ., STE. 1060  
JACKSON, MS 49201

CRAIG SIEBEN  
SIEBEN ENERGY ASSOCIATES  
401 N. WABASH AVE., STE. 536  
CHICAGO, IL 60611

MARIE SPICUZZA  
ASSISTANT STATE'S ATTORNEY  
ENVIRONMENT AND ENERGY DIVISION  
COOK COUNTY STATE'S ATTORNEY'S OFFICE  
69 W. WASHINGTON, STE. 700  
CHICAGO, IL 60602

STEVEN R SULLIVAN  
VICE PRESIDENT  
ONE AMEREN PLZ.  
1901 CHOUTEAU AVE.  
PO BOX 66149, MC 1300  
ST. LOUIS, MO 63166-6149

**Service List - page 9**

**Docket Nos. 00-0259, 00-0395 & 00-0461**

CHRISTOPHER J TOWNSEND  
ATTY. FOR NEWENERGY MIDWEST, L.L.C.  
PIPER MARBURY RUDNICK & WOLFE  
203 N. LASALLE ST., STE. 1800  
CHICAGO, IL 60601-1293

TIMOTHY P WALSH  
ATTORNEY  
PEOPLES ENERGY SERVICES CORPORATION  
130 E. RANDOLPH DR., 23RD FL.  
CHICAGO, IL 60601

STEVEN WALTER  
CITY PLANNER V  
DEPT. OF ENVIRONMENT  
CITY OF CHICAGO  
30 N. LASALLE, STE. 2500  
CHICAGO, IL 60602-2580

R LAWRENCE WARREN  
SENIOR ASSISTANT ATTORNEY GENERAL  
PUBLIC UTILITIES BUREAU  
100 W. RANDOLPH ST., 12TH FL.  
CHICAGO, IL 60601

KAREN S WAY  
ATTY. FOR NEWENERGY MIDWEST, L.L.C.  
PIPER MARBURY RUDNICK & WOLFE  
203 N. LASALLE ST., STE. 1800  
CHICAGO, IL 60601-1293

HEATHER JACKSON  
ATTY. FOR COMMONWEALTH EDISON COMPANY  
HOPKINS & SUTTER  
THREE FIRST NATIONAL PLAZA  
70 W. MADISON ST., STE. 4100  
CHICAGO, IL 60602